



# **CITY OF SANTA BARBARA**

## **COUNCIL AGENDA REPORT**

**AGENDA DATE:** September 22, 2009

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Introduction Of Mills Act Historic Preservation Incentive Ordinance

**RECOMMENDATION:** That Council:

- A. Introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Chapter 22.22 of the Municipal Code to Establish a Process for Historic Property Preservation Contracts Between the Owners of City Historic Properties and the City Pursuant to the Authority of the State Mills Act;
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara to Adopt Administrative Rules and Procedures for the Implementation of the State Mills Act Program; and
- C. Recommend that Staff return to Council after three years with a status report on the City's Mills Act Program.

### **EXECUTIVE SUMMARY:**

On July 3, 2007, Planning Staff presented Council with various incentives available for property owners with historic resources including the Mills Act tax abatement program. The Mills Act is a state law enacted in 1972, which allows owners of designated historic properties to enter into a contractual recorded agreement with the municipality within which the historic property is located to preserve, maintain, and possibly rehabilitate the structure.

The City Council authorized staff to proceed with several potential incentive concepts, including the implementation of a Mills Act Program that would allow property owners of City Landmarks, Structures of Merit and contributing buildings within Historic Districts to possibly reduce their property tax while entering into a renewable ten-year contract to maintain and repair their properties.

Planning staff met with the Finance Committee in November 2007 and the Ordinance Committee in August 2009 to review and evaluate the potential effects of implementing the Mills Act. The Finance Committee discussed the scope and quantity of Mills Act contracts and agreed that a simple pilot program be established with a limit of eight contracts per year, with a total program cap not to exceed \$300,000, to lessen the financial impact in reduced city tax revenue. The Finance Committee also expressed concerns regarding possible long-term impacts to staff resources as a result of the cumulative number of contracts requiring administration year after year. For this reason, a re-evaluation of the program after several years is recommended.

The Ordinance Committee enthusiastically supported the implementation and adoption of the Mills Act program. The Ordinance Committee agreed that the proposed Mills Act Program had been crafted with sufficient mechanisms in place to limit the total city tax revenue loss. Staff has completed all necessary program rules and procedures and is forwarding the Mills Act program ordinance for Council adoption and implementation.

## **DISCUSSION:**

### **Background:**

On July 3, 2007, City Council authorized staff to proceed with several possible incentives for preserving and maintaining city historic resources, including the implementation of a Mills Act Program. Staff has researched financial and other resource incentives that have worked well in other municipalities. Based on a review of available economic incentives, the Mills Act appears to be the most important economic incentive program available in California for use by the private property owners of qualified historic structures. Following is a brief description of the Mills Act and local program specifics.

### State Mills Act

The Mills Act is a state law enacted in 1972, which could enable owners of designated historic structures to enter into an agreement (contract) with the City to preserve, maintain and possibly rehabilitate the structure. Such agreements provide a reduction of property taxes in exchange for the continued preservation of the property. Many communities are currently participating in this type of Mills Act program.

The Mills Act requires the County Tax Assessor to re-evaluate the property using an income capitalization method rather than the market value approach (i.e., based on Prop. 13.) In other words, the County Tax Assessor determines the value of the historic property based upon its current net operating income, rather than the upon the traditional assessed valuation method established by Prop 13. Property valuation is determined by the "income" method set out in Revenue and Tax Code Section 439.21.9. The result is typically a substantial reduction in property taxes for post-Proposition 13-qualified historic properties. The money saved on taxes will be available for use in maintaining and restoring the property. The agreement runs for ten years and can renew annually, thus extending the agreement term unless a notice of cancellation is filed by the owner or the City.

The property value and property taxes are recalculated by the County Tax Assessor and do not involve City staff. The loss of tax revenue is shared among applicable agencies that receive the property taxes. The taxing agencies most affected by potential loss revenues have all been notified of this proposed tax abatement program.

#### Finance Committee Review

On November 13, 2007, Planning staff met with the Finance Committee to review and evaluate the financial impacts that could result with the implementation of the Mills Act.

The Finance Committee discussed the scope and quantity of Mills Act contracts and agreed that a City pilot program be established with a limit of eight contracts (which may include up to two commercial property contracts) per year. The Finance Committee was concerned about the long-term potential city tax revenue loss projections and agreed that there should be cap limits on the number of contracts per year, the assessed tax value per property and the amount of total tax revenue loss. A maximum revenue loss cap, not to exceed \$300,000 for the entire program, is proposed.

In addition, the Finance Committee was advised that the amount of staff time to monitor the contracts would be expected to increase over time as the quantity of contracts increases and as additional contract monitoring is required over the extended length of contract periods. Direction was given that the City move forward to establish the Mills Act program and that a re-evaluation be completed several years after adoption. Issues that could be re-examined include the overall effectiveness of the program, number of contracts executed, the status of revenue loss impacts, and whether additional staffing changes were necessary to support and administer the new program.

#### Ordinance Committee Review

On August 4, 2009, Planning staff met with the Ordinance Committee to review the draft ordinance amendments for the implementation of the Mills Act and for direction on other potential historic resource incentives. The Ordinance Committee enthusiastically supported the implementation and adoption of the Mills Act program.

The Ordinance Committee agreed that the proposed Mills Act program had been crafted with sufficient mechanisms in place to limit total city tax revenue loss and that limits on the number of contracts or a cap on the amount of total tax revenue loss. The Ordinance Committee agreed with staff that all reference to caps should not be included in the municipal code itself, but rather in the administrative guidelines approved by Council Resolution in order to allow the Council to more readily modify the program caps in the future, if deemed necessary.

Draft ordinance amendments to Municipal Code Chapter 22.22 (Historic Structures Ordinance) were reviewed to authorize and implement the Mills Act program including the introduction of new definitions outlining what constitutes contributing historic resource properties within a local designated historic district.

### Eligibility and Program Guidelines for Mills Act Contract Applications

Staff has developed Administrative Rules and Guidelines, application materials and handouts that further explain eligibility and program guidelines for all Mills Act contract applications (included in and approved by the Council Resolution). Specific information will be required to be submitted for each application to clarify compliance with eligibility criteria and to outline a ten-year rehabilitation plan.

To apply for a Mills Act Agreement, a property owner's structure must already be designated a City Landmark, Structure of Merit or as a contributing resource to a Historic District. An individual property may also not exceed \$1.5 million in total tax assessed value to qualify for the tax abatement program. The assessed valuation cap limit is intended to maximize benefits to as many properties as possible given the proposed cap in total program revenue loss. If no caps were in place, larger higher-assessed properties could significantly impact the overall program cap limits.

Mills Act Agreement applicants will be required to pay a non-refundable \$40 application fee and an additional \$400 application processing fee after properties are selected for participation in the program, to recover some of the costs of staff time to review and execute the contracts. All work must meet all City requirements and follow the Secretary of the Interior Standards for Rehabilitation.

Staff is recommending that applications be reviewed and ranked by the City's Urban Historian working with the Historic Landmarks Commission Designations Subcommittee to determine priority for each tax year. Final contract approval would be executed by the Community Development Director based on a recommendation from the Historic Landmarks Commission. Eligibility criteria that the Historic Landmarks Commission would consider are: 1. the historic significance of the structure; 2. quality of improvements that enhance community character; 3. the date of application submittal; and, 4. the expenditure level of rehabilitation planned or underway.

Mills Act contracts and rehabilitation work will be monitored by the City's Urban Historian with requirements that annual reports be provided to the City regarding the status and progress of all ongoing repair work. Any Mills Act contract may be cancelled by either party (as provided in the Mills Act) and the City may terminate for failure to make progress or complete scheduled repairs as per the approved rehabilitation plan. Handouts have been created to help promote and explain key elements of the Mills Act Program (see Attachment 1).

### **Other Code and Zoning Relief Incentives**

Staff also received direction from the Ordinance Committee to move forward with additional alternative Code and City zoning relief incentives. The additional incentives and possible municipal code amendments listed below are not yet scheduled for future consideration, and would proceed subsequent to the Mills Act adoption.

- New findings for zoning modification approvals for reduction or elimination of required parking for small constrained sites;
- Use of the more lenient California Historical Building Code (Part 8 of California Code of Regulations, Title 24) for all local, state, and federal historically designated sites;
- Access to a Conditional Use Permit that may allow a use for historical sites not normally permitted in the zone; and
- Flexibility to allow change of occupancies to occur more readily in commercial zones.

#### **BUDGET/FINANCIAL INFORMATION:**

Staff estimates the initial years of the total annual city tax revenue loss estimate to be in the \$6,000 to \$15,000 range for participation in the Mills Act Tax Abatement program. The range in revenue loss is and will be variable and is expected to incrementally grow since it is based on the number of actual contracts executed, the amount of assessed property values, and the actual percentage of actual tax revenue the City actually receives from the Tax Assessor's Office from each property.

Significant budget or staffing impacts are not expected as a result of the adoption of the Mills Act ordinance and in order to administer the first several years of the Mills Act program. The budget submitted by the Community Development Department provides for sufficient staff time allocation to accommodate the proposed program administration. However, since the number of contracts is expected to increase over time, staff recommends that Staff return after three years to provide Council with a status report which would include an update on planning staffing hours utilized to support the Mills Act Program. Finally, due to budget and staffing limitations, additional work on other incentives may be delayed due to higher priority work assignments.

#### **SUSTAINABILITY IMPACT:**

The proposed adoption of the Mills Act would provide much needed incentives for the preservation and rehabilitation of the City's historic resources, would protect older established residential neighborhoods by encouraging maintenance of historic properties and assist in the enhancement of designated structures. The use of historic preservation incentives improves the sustainability in the City in many ways, including the following:

- Traditional buildings have historic materials that are often more durable, less toxic and have longer life cycles but must be properly maintained;
- The deterioration in the condition of older historic structures could increase the number of substandard structures, lead to more demolitions resulting from neglect and would contribute to construction waste that builds up in landfills and expends energy to do so;
- Preservation of structures minimizes the use of new resources and saves both new energy and embodied energy of the already constructed buildings. Preservation of homes within older established neighborhoods would also allow the life of smaller homes to be extended that typically have less long-term energy use.

**ATTACHMENT:** Mills Act Program Q & A Handout

**PREPARED BY:** Jaime Limón, Senior Planner II

**SUBMITTED BY:** Paul Casey, Community Development Director

**APPROVED BY:** City Administrator's Office

City of Santa Barbara, Community Development Department  
**Mills Act - Historic Preservation - Planning Division**

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**Mills Act – Questions and Answers:**

1. **Q: What is the Mills Act?**  
**A:** The Mills Act is a state act providing property tax abatement to owners of historic properties. The purpose of the Act is to encourage rehabilitation, as well as ownership of historic properties, by providing a financial incentive through property tax reduction. The Act uses an alternative equation to calculate property taxes, with the requirement that the savings be spent on qualified improvements to the historic property.
2. **Q: Who can apply for the Mills Act?**  
**A:** Owners of designated historic properties can apply for the Mills Act. Designated historic properties include those individually listed as City Landmarks or Structures of Merit, as well as contributors to a Historic District.
3. **Q: How can I apply for the Mills Act?**  
**A:** The Mills Act Applications require some calculations. Examples of application materials are also available on request. Applications are available by: 1) Picking up a copy up at the Planning Counter at 630 Garden Street or 2) Contacting the Historic Preservation Staff at 805-564-5470 or email at JJacobus@SantaBarbaraCA.gov and requesting a copy via the US Mail, or 3) Downloading a Mills Act Application off of the 'Community Heritage' portion of the planning website at <http://www.SantaBarbaraCA.gov>. Complete applications can be dropped off at the Planning Counter on the 1st Floor of the Community Development Building or via US mail at the following address: Planning Division, Historic Preservation, 630 Garden Street, Santa Barbara, CA 93101.
4. **Q: How many Mills Act Applications are accepted annually?**  
**A:** The City accepts 8 Mills Act contracts per year – six residential and two commercial, or up to eight residential if no commercial applications are submitted. If more applications than the allotted amount are received, the Mills Act contract recipients will be determined by reviewing City Council adopted selection criteria for the submitted applications.
5. **Q: When are the Mills Act Applications due?**  
**A:** Mills Act Applications will be immediately accepted after adoption of the program. In future years, the application period will be set. Please contact staff for information on application deadlines.
6. **Q: What is the application fee?**  
**A:** The application fee for Mills Act Contracts is \$50 at the time of application submission. Once the Mills Act application is recommended for approval by the Historic Landmarks Commission an application contract initiation fee of \$400 will also be due.
7. **Q: How much will I save on my property taxes?**  
**A:** The Mills Act uses an alternative equation to calculate the property taxes. This alternative equation can save property owners, especially those who have recently purchased property, major savings on the property tax bill. If the property has been owned pre Prop 13, the County Assessor does not recommend applying for the Mills Act as the savings will be negligible.
8. **Q: When will I start to receive my savings on my tax bill?**  
**A:** Savings will appear on the tax bill for the fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>) following the calendar year it is recorded with the County and finalized. For Example, Mills Act participants from the 2009-2010 year received the first tax bill savings on the fall of 2010-2011 tax coupon, which is typical.
9. **Q: Can I spend all of my 10 year savings in one fiscal year for one big improvement project?**  
**A:** No, the City is interested in a long term approach to maintenance projects. The proposed tax savings must be spent on the historic property on an annual fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>) basis.

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Please direct any questions regarding the use of these questions and answers or other Mills Act Questions to the Historic Preservation Staff in the Planning Division at (805) 564-5470.

Updated September, 2009

*Mills Act – Questions and Answers*

10. **Q:** Will there be cap limits on the program?  
**A:** Yes. Initial caps placed on property valuations will be set at 1.5 million for the maximum property assessed valuation for any individual property. A total initial cap of \$300,000 maximum city revenue loss is also being established for the entire program.
11. **Q:** Is the Mills Act transferable if I sell my property?  
**A:** Yes, Mills Act contracts are transferred to new property owners when the property is sold.
12. **Q:** Does my property get reassessed if I sell my property, thus changing the monetary value of my savings?  
**A:** Yes, Mills Act contracts are reevaluated on an annual basis with the County Tax Assessor for tax savings. One of the factors the Assessor uses in determining the Mills Act tax bill is the current assessment value of the historic property. Were the property value to change, the tax savings could also see a change.
13. **Q:** What property improvements are eligible?  
**A:** Most improvements are eligible for the Mills Act, as the intention is to encourage property owners to continue to provide maintenance for the historic properties. The improvements need to be a permanent part of the property and/or property. For example:
- A new outdoor seasonal gazebo would not qualify, but a permanent foundation repair would qualify.
  - New furniture would not qualify, but new built-in cabinetry or shelving could qualify.
14. **Q:** Can I count the cost of labor for the improvements made to my property?  
**A:** Yes, the cost of labor can be included in the total cost of improvements to the property, as long as the labor has been completed by a qualified individual that can produce a verifiable receipt for the labor. Property owners cannot include the cost for the owner's personal labor. For Example:
- If a property owner were to have the outside of the historic property painted by a painting company, the full cost of the bill could be counted as a qualified improvement.
  - If a property owner were to paint the property utilizing the property owner's own labor to apply the paint, the only costs that could count as an improvement are the cost of paint and paint prepping materials used to complete this qualified task.
15. **Q:** How do the property inspections work?  
**A:** Planning staff may visit the historic property at the initial time of application and annually on subsequent years to verify that project repairs that have been completed as per the 10 Year Rehabilitation plan.
16. **Q:** Can I change things on my submitted "10 Year Rehabilitation plan" for work on my property?  
**A:** Yes, previous submissions on the "10 Year Rehabilitation plan" can be changed. Although Historic Preservation Staff ask for the Rehabilitation plan up front, changes are allowed on an annual basis. These changes must be submitted to the Planning Division in writing prior to completion of the proposed qualified task.
17. **Q:** How long is my Mills Act Contract good for?  
**A:** Participants enter into a perpetual 10 year contract with the City. Mills Act contracts are automatically renewed each fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>). The contract is renewable at the City's discretion for subsequent years after the 10 year contract is complete.
18. **Q:** Who approves the contract I have with the City for my Mills Act Property?  
**A:** The Community Development Director approves the Mills Act contract but City Council authorization is required if program cap limits are proposed to be exceeded.
19. **Q:** What happens if I do not fulfill my obligation to the Mills Act?  
**A:** The Mills Act is a privilege given to those who have willingly applied and been accepted through the extensive application process. The Mills Act is an incentive for those who own historic properties by providing financial assistance through tax savings. However, the Mills Act is also a legal contract and is enforceable by law. Penalties may incur if owners do not fulfill the obligation required by the contract to spend the tax savings on the repair and maintenance of the historic property.

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